

**Adopted Resolution and Decision of the Special Meeting of the Impact Assessment Committee (IACOM)
of Heritage Western Cape (HWC) held at 1st Floor Boardroom, Protea Assurance Building, Green Market Square, Cape Town and via Microsoft Teams, at 09H00 on Tuesday, 17 November 2020**



MATTERS DISCUSSED

- 8. SECTION 38(2) RESPONSES TO NOTIFICATION OF INTENT TO DEVELOP (NID)**
 - 8.1 None
- 9. SECTION 38(1), INTERIM COMMENT**
 - 9.1 None
- 10 SECTION 38(4) RECORD OF DECISION (ROD)**
 - 10.1 None
- 11 SECTION 38(8) NEMA RESPONSES TO NOTIFICATION OF INTENT TO DEVELOP**
 - 11.1 None
- 12 SECTION 38(8) NEMA INTERIM COMMENTS**
 - 12.1 None
- 13 SECTION 38(8) NEMA FINAL COMMENTS ON ENVIRONMENTAL IMPACT ASSESSMENT**
 - 13.1 **Proposed redevelopment of Protea Village, Erven 212 and 242, Bishops Court: NM HM/CAPE TOWN METROPOLITAN/BISHOPS COURT/ERVEN 212 AND 242**

Case No: 17120718WD1208M

FINAL COMMENTS:

Preamble

The committee remains of the opinion that the outdated, spatially exclusive and market driven planning model imposed on the landscape will have a direct and lasting implication on the claimants and the heritage resources identified within the area. The positioning and orientation of the claimant's housing in relation to the broader site context is regarded to be dislocated and isolated from its immediate urban environment as the design seeks to promote an inwardly focused planning layout. Furthermore, the layout lacks permeability and misses the opportunity

to successfully integrate the claimant's housing with the underlying urban structure of the area and historic morphology of the site.

The development proposes that the land along the most sensitive and attractive areas be sold to the open market (adjacent to river corridor), which is also the land that the claimants indicated as being a place of significant memory to the community. The current planning model reiterates a segregated planning model with the distribution of the best and well-watered land to the free market and places the claimants the furthest away from it.

As indicated in the HIA the claimants will only retain 38% of the total site area which in effect reinforces the history of exclusion and dispossession along the Liesbeek Valley.

Furthermore, the proposed development allows Kirstenbosch Drive to act as a separator and not an integrator which repeats apartheid planning principles of utilising urban infrastructure as dividers/ buffers. A parallel exists between how the Liesbeek River was used to geographically separate communities in the past and presently how Kirstenbosch Drive is incorporated into the design to be used as a separator between the claimants housing from the larger stands aimed at the high value residential market. These spatial structuring design elements reinforce both the previous and existing exclusionary urban patterns legitimised by the market and security concerns.

The Committee therefore reaffirms and endorses the previous IACom Interim Comment dated 5 August 2019 particularly regarding the following:

1. The Committee is bound by the provisions of the National Heritage Resources Act and therefore is obliged to consider the impact of the development on all identified heritage resources. This does not negate the importance of the restitution of the land to the community nor the principle of restorative justice.
2. The Committee fully supports the restitution of the land to the community but retains strong reservations in respect of the outdated and spatially exclusive planning model imposed on the landscape with inwardly focused development and gated communities. It regrets that a very real opportunity for providing a meaningful and spatially integrated development has been lost.
3. The Committee accepts that the primary consideration is the return of the community to the land. Therefore, if the planning model proposed is the only financial means to facilitate this return, the following is resolved:
 - 3.1 There is no objection to the proposed development in the south-west portion of the site, i.e. south of the stream.
 - 3.2 The Committee accepts the development of Erf 242 (the claimant village). However, the inwardly focused model must address its relationship to the stone cottages to the west of its boundary, and provide a meaningful and tangible connection between the two.
 - 3.3 The Committee reluctantly accepts the development to the western half of the portion of property directly to the south of Kirstenbosch Drive, with stringent conditions to be determined in due course.

- 3.4 The Committee does not accept the severance of the Public Open Space system and spring from Kirstenbosch Drive and its landscape context, and the erosion of the role of the spring and associated eastern parcel of the site as a 'memory node.'
- 3.5 If unavoidable to have two security developments to the south of Kirstenbosch Drive, the interface/ gap between these two should at least allow for a direct and meaningful pedestrian route from the claimant village to the Spring.
- 3.6 The central access road south of Kirstenbosch Drive to erf 212 leading to the spring and the rest of the open space, should remain open to the public.
- 3.7 The committee further notes that site planning (or SDP) should respond to heritage considerations/indicators and not the other way round.
- 3.8 The committee notes and supports that the Liesbeek River and its tributaries will be conserved.

Updated HIA and Revised SDP

4. The Committee has reviewed the updated HIA dated September 2019 and confirms that while it is technically compliant in terms of S38(3) of the NHRA, there are a number of identified gaps. These include the issue of alternatives to address a number of fundamental heritage concerns that have not been adequately considered and explored. These alternatives relate directly to the visual and spatial-socio characteristics of the development and its relationship to its heritage context, both tangible and intangible. The HIA is also lacking in thorough understanding and mapping of the site, its spatial characteristics, morphology, historical and contemporary praxis, and how all these in turn should inform and guide the design of an integrated development.
5. Archaeology: It was noted that the site is largely treated as a greenfield site (excluding key treed and ecological areas) and the committee queried how any archaeological remnants that may be uncovered would influence the conceptual layout and positive placemaking, memory and interpretation.
6. Updated SDP "Alternative N" responses:
 - 6.1 Public access and linkage to spring and river: The revision represents a shift to ensuring public access, however concerns remain around how this will be implemented and retained in perpetuity. The committee regards this unfettered access as fundamental to the site.
 - 6.2 Stone cottages: While a small portion of the development on erf 242 faces onto the stone cottages on Kirstenbosch Drive it was noted that development is by and large turned inwardly away from the surrounding context. The updated HIA notes that gateways will be provided on the curved roadway area to link to the cottages. The committee regards this as an inadequate response and indicative of the inward focused model proposed.
7. The Committee recommends that should the development be approved; the following conditions must apply to mitigate impacts on heritage:
 - 7.1 Archaeology:

An archaeological monitoring plan is needed. This plan should be agreed to by the appointed archaeologist, HWC, the developer and the construction contractor(s). The details of the monitoring plan are to be agreed with HWC prior to any work commencing on site.

Opportunities for the possible retention of any in-situ remains are to be investigated and incorporated as part of the developed landscape plan and potential further archaeological management processes.

- 7.2 Unfettered public access to the riverine corridor must be guaranteed in perpetuity.
- 7.3 The Committee requires that the developed landscaping plan, which illustrates inter alia the open public space system, tree retention and planting, integration of archaeological remains and related historic interpretation, public open access design, security systems, perimeter treatment and boundary conditions relating to the stone cottages, Kirstenbosch Drive and the riverine public open space, be submitted to HWC for endorsement prior to the submission of any building plans to the local authority

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14 SECTION 38(8) MPA ENVIRONMENTAL MANAGEMENT PLAN RESPONSES TO NOTIFICATION OF INTENT TO DEVELOP

14.1 None

15 SECTION 38(8) MPA ENVIRONMENTAL MANAGEMENT PLAN INTERIM COMMENT

15.1 None

16 SECTION 38(8) MPA ENVIRONMENTAL MANAGEMENT PLAN FINAL COMMENT

16.1 None

17 SECTION 38(8) OTHER LEGISLATION NOTIFICATION OF INTENT TO DEVELOP

17.1 None

18 SECTION 38(8) OTHER LEGISLATION INTERIM COMMENT

18.1 None

19 SECTION 38(8) OTHER LEGISLATION FINAL COMMENT

19.1 None

20. SECTION 27 PROVINCIAL HERITAGE SITES

20.1 None

21 SECTION 42 HERITAGE AGREEMENT

21.1 None

22. ADVICE

22.1 None

23. OTHER

23.1 None

24 Adoption of decisions and resolutions

The Committee agreed to adopt the decisions and resolutions as minuted above.

Adopted Resolution and Decision